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PROPERTY TAKINGS AND COMPENSATION

HR xxxx

To amend Title 28 of the U.S. Code to address failures by the U.S. Court of Federal Claims to protect property rights taken by the federal government or in league with the federal government, including judges.

IN THE HOUSE OF REPRESENTATIVES

Date: _____

Mr./Ms. ____ introduced the following bill; which was referred to the Committee on Veterans Affairs.

A BILL

To amend the U.S. Code at Title 28 to ensure that private property is so defined and protected from being taken by any government entity of the United States or any state.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Private Property Compensation Act of 2021.” Also known as the PPC Act of 2021.

SEC. 2 Findings of fact and purpose.

- (a) The U.S. Court of Federal Claims (CFC) has jurisdiction to compensate for property takings under the 5th Amendment and the Tucker Act.
- (b) The U.S. Court of Federal Claims (CFC) has used a variety of theories to deny compensation to those whose property was taken either by the federal government (any branch) or in league with a state government.
- (c) The U.S. Court of Federal Claims has stated that a person whose property was taken needs to accept the legitimacy of the taking before it can be compensated. This is wrong and violates the First Amendment. When a person is deprived of their property, they are often angry and come to the Court with anger on their lips and they raise any theory possible to get their property back. Just because a person whose property was taken objects in many ways, quite predictably, does not mean the person is ineligible for compensation. The determination of legitimacy is a judicial finding of law that is not up to the complainant to determine. No matter what the person deprived of property says, if the taking

was legitimate, absolutely nothing the person deprived says can change that legal fact, which is in fact in their favor.

- (d) In other words, a person cannot shoot themselves in the foot and lose compensation rights simply by criticizing the act of taking the property. Since the private litigant cannot make the judicial determination, anything they might say is irrelevant and the Court cannot rely on those words to deny property compensation when taken for public purposes.
- (e) A law license is private property created by the government, state or federal, and when it is taken, the loss must be compensated. The exception to this rule is when a law license holder commits a crime and is duly convicted of that crime, in which case the taking is a punishment for the crime. Absent a crime and conviction, no law license may be taken without compensation because taking a law license is always considered to be done in the public interest. Even if the attorney engaged in unethical conduct, taking that lawyer's license must be compensated once the punishment reaches suspension (without crime) such that the ability to practice law and earn income that way is taken.
- (f) A lawsuit or appeal, also known as a chose-in-action, is private property. Such property can be taken (or extinguished) by a court for public (or court) purposes and using tools created by the legislature. Using a statute or administrative rule to achieve this is a taking done for public purposes and it must be compensated.
- (g) Prior to 1925 and the Judges Act (43 Stat. 936), nearly every appeal to the U.S. Supreme Court was heard and decided. There is a constellation of federal statutes

starting in 1891 that limited this right to U.S. Supreme Court appeals to only those with prior approval by at least 4 justices. This is known as the certiorari system. Removing the right to be heard and have an appeal decided is an act of property takings and the U.S. Supreme Court engages in these takings by using the statutes provided by Congress.

- (h) Any taking of a lawsuit right by simply closing the Court in the above fashion is an act of public interest takings of private property and it should thus be compensated by the U.S. Court of Federal Claims. Thus, the Court of Federal Claims needs to assess the value of the damage done by removing the property right in each case. In no case shall the damages be less than \$10,000 per denial of certiorari and the actual amount shall be determined above \$10,000.
- (i) Court and legislative takings have been contemplated by the U.S. Supreme Court since 1897 in *Chicago, B. & Q. R. Co. v. Chicago*, [166 U.S. 226](#), 236 (1897):

The legislature may prescribe a form of procedure to be observed in the taking of private property for public use, but it is not due process of law if provision be not made for **compensation**. Notice to the owner to appear in some judicial tribunal and show cause why his property shall not be taken for public use without compensation would be a **mockery of justice**. Due process of law, as applied to judicial proceedings instituted for the taking of private property for public use means, therefore, such process as recognizes the **right of the owner to be compensated if his property be wrested from him and transferred to the public**. The mere form of the proceeding instituted against the owner, even if he be admitted to defend, cannot convert the process used into due process of law, if the necessary result be to **deprive him of his property without compensation**.

SEC. Changes to 28 U.S.C. § 1491(a)

(a)(3) shall be added to this section and shall state as follows: “Law licenses both state and federal are property protected by the 5th Amendment and the Tucker Act. Unless a law license was taken to punish criminal acts, any suspension or disbarment shall be compensated by the U.S. Court of Federal Claims. Payment shall amount to \$50,000 per year of suspension per license. Any suspension over 3 years shall be considered a disbarment. A disbarment shall be compensated in the amount of \$1,000,000 per license. If a state law license is suspended for 5 years without any criminal conviction involved, for instance, the Court of Federal Claims shall pay \$150,000 for the first 3 years of suspension and \$1,000,000 for the constructive disbarment after 3 years and one day of suspension. If 3 such licenses are to be compensated, the amount due on day 1 after 3 years would be \$3,450,000. Reciprocal suspension shall be considered the same as an original suspension and compensated the same. Consequential damages shall also be paid, such as when others repeat that the suspension happened. Such consequential torts are explicitly covered by this section and the Tucker Act and not FTCA because these torts are integrally connected to the suspension or disbarment takings.”

(a)(4) shall be added to this section and shall state as follows: “Hostile or angry language in the complaint or other proceedings is irrelevant to the legitimacy of any takings of private property or whether there was a public purpose. The Court of Federal Claims shall assume that any taking of property was for a public purpose and legitimate unless the United States shows otherwise by clear and convincing evidence that the taking was illegitimate. Only a Court can decide if a taking was legitimate and a party who lost property cannot be punished

or refused compensation for saying the taking was done wrongly or criticized it in any other way. Saying there were due process or equal protection problems or other issues with the taking has no relevance to the determination of public purpose or legitimacy and such comments by the party deprived of property shall be disregarded as a First Amendment privilege.”

(a)(5) shall be added to this section and shall state: “A lawsuit or appeal is known as a chose-in-action and there is a property right, compensable under the 5th Amendment, in the right to use the courts and obtain relief. If a court closes itself to a person or bans a person from using any of its services, including e-filing, this is a compensable taking under the 5th Amendment and the Tucker Act. Minimum damages for such takings is always at least \$10,000, so jurisdiction is always in the U.S. Court of Federal Claims and other actions by other courts in other cases are reviewable to the extent takings by the other court is the issue and the other court cannot possibly have jurisdiction over the taking.”

(a)(6) shall be added to this section and shall state: “No judge of the Court of Federal Claims shall ever ban any person from making filings absent a criminal conviction at the felony level by another court. No judge of the Court of Federal Claims is empowered to call any *pro se* litigant’s filings frivolous, even if the claims are not valid.”

(a)(7) shall be added to this section and shall state: “No claim for takings compensation in the Court of Federal Claims shall be dismissed because review of another court’s decision and proceedings is necessary to determine a taking claim under the Tucker Act. If it is clear that a taking by another court is the issue and that other court has no jurisdiction under this section to decide the takings matter, the Court of Federal Claims shall review those

proceedings and determine if takings of private property for public purposes was done by that other court.”

(a)(8) shall be added to this section and shall state: “Any taking done by the government for a purpose that is not a public purpose or was otherwise not legitimate or according to law shall be treated as a normal, valid taking that must be compensated just the same as a legitimate taking because legitimate or not, the government must protect property and the rights of citizens to be secure in their property from abuses. Normal takings are considered not to be abuses and they are compensated. Abusive takings must be compensated even more so because to reward the government for abuses by reducing liability for takings is illegitimate nonsense.”

(a)(9) Regardless of what is claimed in the complaint, a minimum of \$10,000 in damages shall be presumed so that review of any other court’s decisions and proceedings is possible without jurisdictional entanglement with the court whose proceedings are being reviewed. No other court must have jurisdiction over a taking claim and this is true when the complaint is above \$10,000. See also: *nemo judex in causa sua*.